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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

TOYO TIRE & RUBBER CO., LTD., a
Japanese corporation, and TOYO TIRE
U.S.A. CORP., a California corporation,

Plaintiffs,

v.

CIA WHEEL GROUP, a California
Corporation, DOUBLESTAR DONG FENG
TYRE CO., LTD., a Chinese corporation. ,
QINGDAO DOUBLESTAR TIRE
INDUSTRIAL CO, LTD, a Chinese
Corporation, DOUBLESTAR GROUP
CORP., a Chinese corporation, HONG
KONG TRI-ACE TIRE CO., LTD, a Chinese
corporation; and JINLIN MA, an individual,

Defendants.

AND RELATED COUNTERCLAIMS AND
CROSS-CLAIM.

Case No. SACV15-00246-DOC (DFMx)
Hon. David O. Carter

**NOTICE OF MOTION AND
DEFENDANT CIA WHEEL GROUP'S
MOTION FOR SUMMARY
JUDGMENT ON TRADE DRESS
CLAIM (FUNCTIONALITY AND
GENERICNESS) AND 17200 CLAIM**

Date: September 12, 2016
Time: 8:30 a.m.
Crtrm: 6B

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on September 12, 2016 at 8:30 a.m., or as soon
3 thereafter as the matter may be heard before Honorable David O. Carter, in Courtroom 6B
4 of the United States District Court, Central District of California, located at 411 West
5 Fourth Street, Santa Ana, California 92701, Defendant CIA Wheel Group ("CIA") will, and
6 hereby does, move for summary judgment pursuant to Rule 56 of the Federal Rules of Civil
7 Procedure ("FRCP"). This motion for summary judgment is brought on the following
8 grounds:

- 9 • Plaintiffs Toyo Tire & Rubber Co., Ltd. and Toyo Tire U.S.A. Corp. (collectively,
10 "Toyo") cannot establish a genuine issue of material fact as to their alleged trade
11 dress being nonfunctional or not generic, such that summary judgment is appropriate
12 pursuant to FRCP 56(C)(1)(B) on the basis that the alleged trade dress is both
13 functional and generic as a matter of law; and
- 14 • Toyo cannot make a showing sufficient to establish unfair competition in violation of
15 § 17200 et seq. of the California Business and Professions Code such that summary
16 judgment is appropriate pursuant to FRCP 56(C)(1)(B), all for the same reasons.

17 This Motion is based on this Notice of Motion, the accompanying Memorandum of
18 Points and Authorities, the Statement of Uncontroverted Facts & Conclusions of Law
19 (SOUFACL), the Declaration of Peter R. Afrasiabi and accompanying exhibits, the two
20 Patent Functionality Charts, and the pleadings and papers on file in this action, and on such
21 other and further evidence as may properly be before this Court at the hearing on the
22 motion.

23 This Motion is made following the conference of counsel pursuant to Local Rule 7-3,
24 which took place in person at the offices of One LLP, 4000 MacArthur Blvd, East Tower,
25 Suite 500, Newport Beach, CA 92660 on July 14, 2016.

Dated: August 8, 2016

ONE LLP

By: /s/ Peter R. Afrasiabi

Peter R. Afrasiabi

Attorneys for Defendant,

CIA Wheel Group